TARGETED MARKET CONDUCT EXAMINATION REPORT
AS OF JUNE 30, 2006

STEWART TITLE GUARANTY COMPANY
1980 Post Oak Boulevard
Houston, Texas 77056

NAIC GROUP CODE 340
NAIC COMPANY CODE 50121

EXAMINATION PERFORMED BY
EXAMINATION RESOURCES, LLC

STEWART TITLE GUARANTY COMPANY
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Houston, Texas 77056

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Examination Performed by
Examination Resources, LLC
Charlotte J Howell, CIE
Victor Negron, AIE, FLMI
Jack Casper, CIE, CPCU

May 25, 2007

The Honorable Marcy Morrison
Commissioner of Insurance
State of Colorado
1560 Broadway, Suite 850
Denver, Colorado 80202

Commissioner Morrison:

This targeted market conduct examination of Stewart Title Guaranty Company was conducted pursuant to §§ 10-1-203 and 10-1-204, C.R.S., which authorizes the Commissioner of Insurance to examine title insurance companies. We examined the Company's records at its office located at 50 South Steele Street, Denver, Colorado, 80209. The market conduct examination covered selected business practices associated with the ownership and operation of a title insurance company for the period of July 1, 2003, through June 30, 2006.

Examination Resources, LLC respectfully submits the results of the examination.

Rebecca Belanger-Walkins, CFE
Managing Partner

MARKET CONDUCT EXAMINATION REPORT OF STEWART TITLE GUARANTY COMPANY

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COMPANY PROFILE

Stewart Title Guaranty Company (hereinafter referred to as the Company), was incorporated on February 20, 1908 and is domiciled in the State of Texas. The Company is 100% owned by Stewart Information Services Corporation, an insurance holding company domiciled in the State of Delaware.

The Company provides title insurance coverage and is licensed in all states/territories except Iowa, Illinois, Guam, Northern Mariana Islands, American Samoa, Puerto Rico, and the U.S. Virgin Islands. California, followed by Texas and Florida, were the states with the greatest amount of premium written in 2005. The Company's written premium for Colorado is shown below:

2003	2004	2005	As of June 30, 2006
$46,947,398	$36,328,554	$39,042,499	$17,968,273

*As noted above, the Company's 2005 direct written premium in Colorado was $39,042,499, which represents 11.37% of all title insurance sold in Colorado.

From January 1, 2003, through June 30, 2006, approximately 44% of the Company's Colorado premium related to policies issued by independent agents, 55% related to policies issued by Stewart Title affiliate agencies, and less than 1% related to policies issued by agencies identified by the Company as affiliated business arrangements.

The ten (10) agencies identified by the Company as affiliated business arrangements were in operation in part, or in whole, from the beginning of 2005 through June 30, 2006. Several are still in operation. The ownership of those agencies is shown in the chart on page 19.

*Data as reported in the 2005 Colorado Insurance Industry Statistical Report.

PURPOSE AND SCOPE OF EXAMINATION

Market conduct examiners contracted with the Colorado Division of Insurance (Division) reviewed certain business practices of the Company, in accordance with Colorado insurance law, §§ 10-1-201, 10-1-203, 10-1-204, 10-2-804 and 10-3-1106, C.R.S., which empowers the Commissioner of Insurance to require any person engaged in the business of insurance to be examined. The findings in this report, including all work products developed in producing it, are the sole property of the Division.

The purpose of the targeted market conduct examination was to determine the Company's compliance with Colorado and federal insurance laws related to the business of title insurance. This targeted market conduct examination was triggered by an investigation conducted by Division staff related to affiliated business arrangements. The preliminary findings from the investigation indicated a need for a more in-depth review of certain business practices to determine if the Company was in compliance with Colorado and federal insurance laws. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record.

Examiners conducted the examination in accordance with procedures developed by the Division, based on model procedures developed by the National Association of Insurance Commissioners. They relied primarily on records and materials maintained and/or submitted by the Company, and its affiliated and independent agencies, and provided in response to requests and questionnaires from both the contract examiners and the Division. The documents reviewed during this examination were provided by the Company in both paper and electronic format. The targeted market conduct examination covered the period from July 1, 2003 through June 30, 2006.

The examination included review of the following:

Operations and Management
Escrow, Settlement, Closing or Security Deposit Funds
Marketing and Sales
Underwriting and Rating
Reinsurance
Claims Handling
Agent Relations

The examination report is a report written by exception. References to additional practices, procedures, or files that did not contain any improprieties were omitted. Based on review of these areas, comment forms were prepared for the Company identifying any concerns and/or discrepancies. The comment forms contain a section that permits the Company to submit a written response to the examiners' comments. For the period under examination, the examiners included statutory citations and regulatory references as they pertained to title insurance companies and agencies.

Examination findings may result in administrative action by the Division. Examiners may not have discovered all unacceptable or non-complying practices of the Company. Failure to identify specific Company practices does not constitute acceptance of such practices. This report should not be construed to either endorse or discredit any title insurance agency or company.

An error tolerance level of plus or minus ten dollars ($10.00) was allowed in most cases where monetary values were involved. However, in cases where monetary values were generated by computer or other systemic methodology, a zero dollar ($0) tolerance level was applied in order to identify possible system

errors. Additionally a zero dollar ($0) tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's established policies, procedures, rules and/or guidelines.

When sampling was involved, a minimum error tolerance level of five percent (5%) was established to determine reportable exceptions. However, if an issue appeared to be systemic, or when due to the sampling process it was not feasible to establish an exception percentage, a minimum error tolerance percentage was not utilized. Also, if more than one sample was reviewed in a particular area of the examination (e.g., timeliness of claims payment), and if one or more of the samples yielded an exception rate of five percent (5%) or more, the results of any other samples with exception percentages less than five percent (5%) were also included.

EXAMINERS' METHODOLOGY

The examiners reviewed the Company's business practices to determine compliance with Colorado and federal insurance laws. For this examination, special emphasis was given to the statutes and regulations as shown in Exhibit 1.

Exhibit 1

Statute/Regulation	Subject
Section 10-1-128, C.R.S.	Fraudulent insurance acts – immunity for furnishing information relating to suspected insurance fraud – legislative declaration.
Section 10-1-205, C.R.S.	Financial examination reports.
Section 10-2-704, C.R.S.	Fiduciary responsibilities.
Section 10-2-804, C.R.S.	Investigation by commissioner.
Section 10-3-1104, C.R.S.	Unfair methods of competition and unfair or deceptive acts or practices.
Section 10-11-102, C.R.S.	Definitions.
Section 10-11-108, C.R.S.	Prohibitions.
Section 10-11-116, C.R.S.	Title insurance agents licensed.
Section 10-11-118, C.R.S.	Title Insurance.
Section 10-11-119, C.R.S.	Laws applicable.
Section 10-11-121, C.R.S.	Application of article – other laws applicable.
Section 10-11-122, C.R.S.	Title commitments.
Insurance Regulation 1-1-7	Market Conduct Record Retention
Insurance Regulation 1-1-8	Penalties and Timelines Concerning Division Inquiries and Document Requests
Insurance Regulation 1-2-1	Concerning Agent Fiduciary Responsibilities
Insurance Regulation 3-5-1	Title Insurance
12 U.S.C. §2602	Definitions.
12 U.S.C. §2607	Prohibition against kickbacks and unearned fees.
24 CFR 3500.14	Prohibition against kickbacks and unearned fees.
24 CFR 3500.15	Affiliated business arrangements.

EXAMINATION REPORT SUMMARY

The examination resulted in the identification of one (1) issue in which the Company did not appear to be in compliance with Colorado and federal insurance laws. The following is a summary of the examiners' findings:

Operations and Management: There are no issues involving the Company's operations and management included in the examination report.

Marketing and Sales: The examiners identified one (1) area of concern during the review of the Company's marketing and sales:

- **Creating and operating affiliated business arrangements for the purpose of obtaining remuneration in violation of Colorado and federal insurance laws.**

Underwriting and Rating: There are no issues involving the Company's underwriting and rating included in the examination report.

Reinsurance: There are no issues involving the Company's reinsurance included in the examination report.

Claims Handling: There are no issues involving the Company's claims handling included in the examination report.

Agent Relations: There are no issues involving the Company's agent relations included in the examination report.

MARKET CONDUCT EXAMINATION REPORT

PERTINENT FACTUAL FINDINGS

STEWART TITLE GUARANTY COMPANY

MARKETING AND SALES FINDINGS

Issue A: Creating and operating affiliated business arrangements for the purpose of obtaining remuneration in violation of Colorado and federal insurance laws.

Section 10-11-102, C.R.S., Definitions, states in part:

(3) The "business of title insurance" means the making or proposing to make, as insurer, guarantor, or surety, of any contract or policy of title insurance; or the transacting or proposing to transact, as insurer, guarantor, or surety, any phase of title insurance, including solicitation, negotiation preliminary to execution, execution of a contract of title insurance, and transacting matters subsequent to the execution of the contract and arising out of it, including reinsurance, and the performance of closing and settlement services by a title insurance company or title insurance agent in conjunction with the issuance of any contract or policy of title insurance.

Section 10-11-108, C.R.S., Prohibitions, states in part:

(1) A title insurance company or title insurance agent shall not:

(c) Give or receive or attempt to give or receive remuneration in any form pursuant to any agreement or understanding, oral or otherwise, for the referral of title insurance business;

(d) Give or receive or attempt to give or receive any portion or percentage of any charge made or received in connection with the business of title insurance if such charge is not for services actually rendered. For purposes of this article, "services actually rendered" shall include but not be limited to a reasonable examination of a title, including instruments of record, and a determination of insurability of such title in accordance with sound underwriting practices; "services actually rendered" shall not include the mere referral of title insurance business.

Colorado Insurance Regulation 3-5-1, Title Insurance, promulgated under the authority of §§ 10-1-109, 10-3-1110, and 10-4-404(1), C.R.S., states in part:

Section 3. Definitions

B. "Affiliated business arrangements" mean various ownership arrangements that may exist between and among title entities and settlement producers. Affiliated business arrangements are distinct from controlled business arrangements which are defined by § 10-2-401(4), C.R.S.

L. "Settlement producer" means any person engaged in the trade, business, occupation or profession of: 1) Buying or selling interests in real property; 2) making loans secured by interests in real property; 3) acting as agent, representative, attorney, or employee of a person who buys or sells any interest in real property or who lends or borrows money with such interest as security; or 4) an affiliate or associate of any of these. For purposes of this regulation, settlement producer is not to be confused with the term "insurance producer" or "producer" as those terms are defined in § 10-2-103(6), C.R.S.

Section 5. Rules Regarding Standards Of Conduct For Title Insurance Entities

In addition to any and all acts which may be proscribed elsewhere in Title 10, no title entity shall pay, furnish, or agree to pay or furnish, either directly or indirectly, or through affiliates or associates, any commission or any part of the fees or charges or remuneration in any form, in connection with any past, present, or future title insurance business, any closing and settlement services or any other title insurance business except for services actually rendered, as defined in § 10-11-108(1)(d) and (2), C.R.S., to or on behalf of any of the following:

1. Any settlement producer;
2. Any owner or prospective owner, lessee or prospective lessee of real property or any interest in the real property;
3. Any obligee or prospective obligee of any obligation secured or to be secured either in whole or in part by real property or any interest in the real property; or,
4. Any person who is acting as or who is in the business of acting as agent, representative, attorney or employee of any of the persons described in 1, 2 or 3 above, or any other party to the instant transaction.

The factors the Division will consider when determining whether remuneration for the referral of title insurance business exists or will exist, include, but are not limited to: 1) whether the costs of any settlement producer is being or will be defrayed by the title entity's actions; 2) whether the remuneration is being or will be given to a discrete settlement producer as opposed to a bona fide association of settlement producers; 3) whether a pattern or practice of referrals to the title entity exists or will exist; and 4) consideration of the advertising value of the remuneration to the title entity.

While it is expressly recognized that advertising, marketing, or maintenance and development of client relationships are bona fide business practices, Colorado law prohibits such expenditures when they are remuneration for the referral of title insurance business.

A. The following is a partial, but not all-inclusive, list of acts and practices which the Division considers per se unlawful inducements proscribed by § 10-11-108, C.R.S.:

    1. Affiliated business arrangements which are tied to the referral of title insurance business. Section 10-11-108(1)(c), C.R.S. does not prohibit all ownership interests or affiliated business arrangements between and among title insurance entities and

settlement producers. The Division will make determinations on a case-by-case basis. …

6. Paying for, furnishing, providing, subsidizing, waiving or offering to pay, furnish, provide, subsidize or waive, to or for any of the persons described above in this Section 5 all or any portion of the following:

    f. Salary, compensation or services, except for services actually rendered, including, but not limited to:

        i. All or any part of the time or productive effort of any employee or affiliate of the title entity (e.g., office manager, escrow officer, secretary, clerk, messenger) to any settlement producer at less than the fair market value of the services;
        ii. Compensation of a settlement producer or associate of a settlement producer;
        iii. The salary or any part of the salary of a relative of any settlement producer which payment is in excess of the reasonable value of the work actually performed by such relative on behalf of the title entity; and
        iv. Services by any settlement producer which services are required to be performed by such settlement producer in his or her professional capacity, and for which the settlement producer would not normally charge the title entity.

17. Providing, or offering to provide, non-title insurance services (e.g. computerized bookkeeping, forms management, computer programming, or any similar benefit) to any settlement producer at less than the fair market value of the services.

19. Advancing or paying into escrow, or offering to advance or pay into escrow, any of the title entity funds or "closing short", except as provided in Section 6.

The federal Real Estate Settlement Procedures Act, also known as RESPA, provides the following:

12 U.S.C. § 2602, Definitions, states in part:

For purposes of this chapter—

(7) the term “affiliated business arrangement” means an arrangement in which (A) a person who is in a position to refer business incident to or a part of a real estate settlement service involving a federally related mortgage loan, or an associate of such person, has either an affiliate relationship with or a direct or beneficial

ownership interest of more than 1 percent in a provider of settlement services; and (B) either of such persons directly or indirectly refers such business to that provider or affirmatively influences the selection of that provider; . . . .

12 U.S.C. § 2607, Prohibition against kickbacks and unearned fees, states in part:

(a) Business referrals

No person shall give and no person shall accept any fee, kickback, or thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or a part of a real estate settlement service involving a federally related mortgage loan shall be referred to any person.

(b) Splitting charges

No person shall give and no person shall accept any portion, split, or percentage of any charge made or received for the rendering of a real estate settlement service in connection with a transaction involving a federally related mortgage loan other than for services actually performed.

(c) Fees, salaries, compensation, or other payments

Nothing in this section shall be construed as prohibiting

(4) affiliated business arrangements so long as

(A) a disclosure is made of the existence of such an arrangement to the person being referred and, in connection with such referral, such person is provided a written estimate of the charge or range of charges generally made by the provider to which the person is referred

(i) in the case of a face-to-face referral or a referral made in writing or by electronic media, at or before the time of the referral (and compliance with this requirement in such case may be evidenced by a notation in a written, electronic, or similar system of records maintained in the regular course of business);

(ii) in the case of a referral made by telephone, within 3 business days after the referral by telephone, (and in such case an abbreviated verbal disclosure of the existence of the arrangement and the fact that a written disclosure will be provided within 3 business days shall be made to the person being referred during the telephone referral); or

(iii) in the case of a referral by a lender (including a referral by a lender to an affiliated lender), at the time the estimates required under section 2604(c) of this title are provided (notwithstanding clause (i) or (ii)); and any required written receipt of such disclosure (without regard to the manner of the disclosure under

clause (i), (ii), or (iii)) may be obtained at the closing or settlement (except that a person making a face-to-face referral who provides the written disclosure at or before the time of the referral shall attempt to obtain any required written receipt of such disclosure at such time and if the person being referred chooses not to acknowledge the receipt of the disclosure at that time, that fact shall be noted in the written, electronic, or similar system of records maintained in the regular course of business by the person making the referral),

(B) such person is not required to use any particular provider of settlement services, and

(C) the only thing of value that is received from the arrangement, other than the payments permitted under this subsection, is a return on the ownership interest or franchise relationship, or

(d) Penalties for violations; joint and several liability; treble damages; actions for injunction by Secretary and by State officials; costs and attorney fees; construction of State laws

(4) The Secretary, the Attorney General of any State, or the insurance commissioner of any State may bring an action to enjoin violations of this section.

(6) No provision of State law or regulation that imposes more stringent limitations on affiliated business arrangements shall be construed as being inconsistent with this section.

Federal regulation 24 C.F.R. § 3500.14, promulgated pursuant to RESPA, states in part:

(b) No referral fees. No person shall give and no person shall accept any fee, kickback or other thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or part of a settlement service involving a federally related mortgage loan shall be referred to any person. Any referral of a settlement service is not a compensable service, except as set forth in Sec. 3500.14(g)(1). A company may not pay any other company or the employees of any other company for the referral of settlement service business.

(c) No split of charges except for actual services performed. No person shall give and no person shall accept any portion, split, or percentage of any charge made or received for the rendering of a settlement service in connection with a transaction involving a federally related mortgage loan other than for services actually performed. A charge by a person for which no or nominal services are performed or for which duplicative fees are charged is an unearned fee and violates this section. The source of the payment does not determine whether or not a service is compensable. Nor may the prohibitions of this part be avoided by creating an arrangement wherein the purchaser of services splits the fee.

(d) Thing of value. This term is broadly defined in section 3(2) of RESPA (12 U.S.C. 2602(2)). It includes, without limitation, monies, things, discounts, salaries, commissions, fees, duplicate payments of a charge, stock, dividends, distributions of partnership profits, franchise royalties, credits representing monies that may be paid at a future date, the opportunity to participate in a money-making program, retained or increased earnings, increased equity in a parent or subsidiary entity, special bank deposits or accounts, special or unusual banking terms, services of all types at special or free rates, sales or rentals at special prices or rates, lease or rental payments based in whole or in part on the amount of business referred, trips and payment of another person's expenses, or reduction in credit against an existing obligation. The term “payment” is used throughout Secs. 3500.14 and 3500.15 as synonymous with the giving or receiving any “thing of value” and does not require transfer of money.

(f) Referral.

(1) A referral includes any oral or written action directed to a person which has the effect of affirmatively influencing the selection by any person of a provider of a settlement service or business incident to or part of a settlement service when such person will pay for such settlement service or business incident thereto or pay charge attributable in whole or in part to such settlement service or business.

(2) A referral also occurs whenever a person paying for a settlement service or business incident thereto is required to use (see Sec. 3500.2, “required use”) a particular provider of a settlement service or business incident thereto.

(g) Fees, salaries, compensation, or other payments.

(2) The Department may investigate high prices to see if they are the result of a referral fee or a split of a fee. If the payment of a thing of value bears no reasonable relationship to the market value of the goods or services provided, then the excess is not for services or goods actually performed or provided. These facts may be used as evidence of a violation of section 8 and may serve as a basis for a RESPA investigation. High prices standing alone are not proof of a RESPA violation. The value of a referral (i.e., the value of any additional business obtained thereby) is not to be taken into account in determining whether the payment exceeds the reasonable value of such goods, facilities or services. The fact that the transfer of the thing of value does not result in an increase in any charge made by the person giving the thing of value is irrelevant in determining whether the act is prohibited.

(3) Multiple services. When a person in a position to refer settlement service business, such as an attorney, mortgage lender, real estate broker or agent, or developer or builder, receives a payment for providing additional settlement services as part of a real estate transaction, such payment must be for services that are actual, necessary and distinct from the primary services

provided by such person. For example, for an attorney of the buyer or seller to receive compensation as a title agent, the attorney must perform core title agent services (for which liability arises) separate from attorney services, including the evaluation of the title search to determine the insurability of the title, the clearance of underwriting objections, the actual issuance of the policy or policies on behalf of the title insurance company, and, where customary, issuance of the title commitment, and the conducting of the title search and closing.

(h) Recordkeeping. Any documents provided pursuant to this section shall be retained for five (5) years from the date of execution.

(i) Appendix B of this part. Illustrations in appendix B of this part demonstrate some of the requirements of this section.

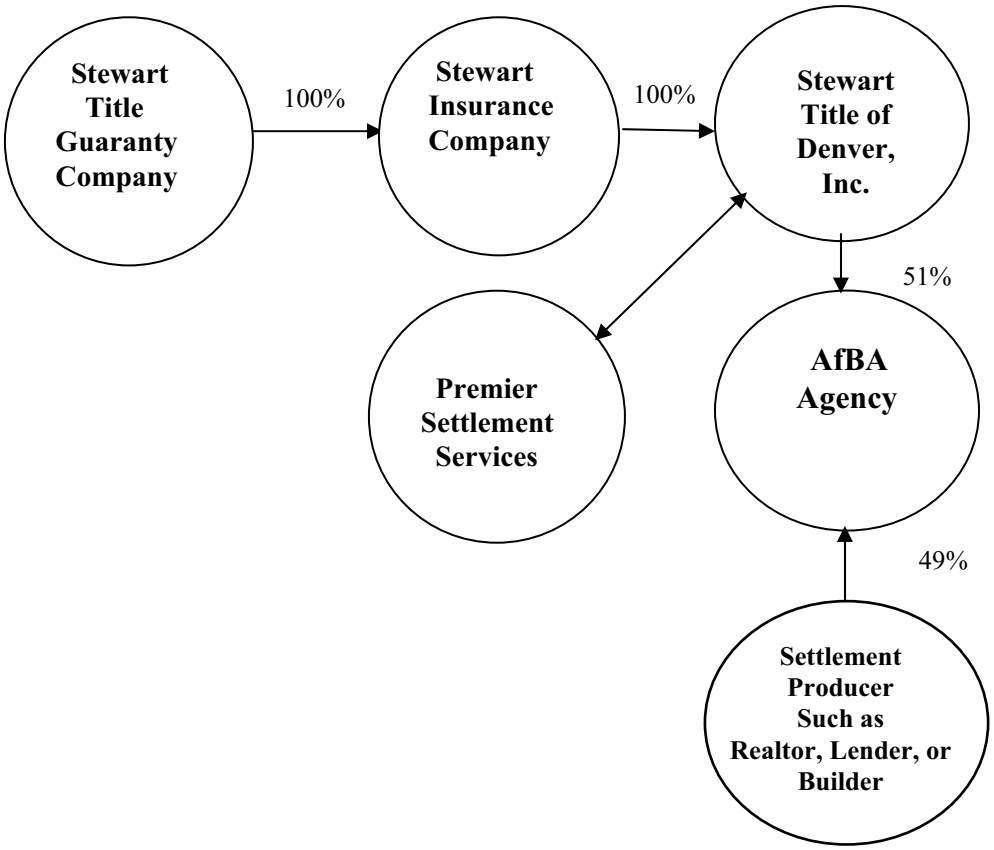
24 C.F.R. § 3500.15, states in part:

(b) Violation and exemption. An affiliated business arrangement is not a violation of section 8 of RESPA (12 U.S.C. 2607) and of Sec. 3500.14 if the conditions set forth in this section are satisfied. Paragraph (b)(1) of this section shall not apply to the extent it is inconsistent with section 8(c)(4)(A) of RESPA (12 U.S.C. 2607(c)(4)(A)).

(2) No person making a referral has required (as defined in Sec. 3500.2, "required use") any person to use any particular provider of settlement services or business incident thereto, except if such person is a lender, for requiring a buyer, borrower or seller to pay for the services of an attorney, credit reporting agency, or real estate appraiser chosen by the lender to represent the lender's interest in a real estate transaction, or except if such person is an attorney or law firm for arranging for issuance of a title insurance policy for a client, directly as agent or through a separate corporate title insurance agency that may be operated as an adjunct to the law practice of the attorney or law firm, as part of representation of that client in a real estate transaction.

The Company identified Advance Title, LLC, Cornell Title, LLC, Blue Stone Title, LLC, DTC Title, LLC, First Nationwide Title, LLC, Amber Title, LLC, American Title, LLC, Tamarac Title, LLC, All State Title, LLC, and 5280 Title Services, LLC, as affiliated business arrangements in operation for all or part of the examination period. Initially, Stewart Title of Denver, Inc. owned 51% of each agency. Early in 2006, this 51% ownership was merged into Stewart Title of Colorado, Inc. Both Stewart Title of Denver, Inc. and Stewart Title of Colorado, Inc. are owned by Stewart Title Company, which is wholly-owned by Stewart Title Guaranty Company. (See Affiliated Business Arrangement Flowchart on the following page.)

Affiliated Business Arrangement Flowchart*:



* This flowchart does not show all affiliated businesses and may not reflect all services that were provided and/or received.

The examiners reviewed responses to multiple questionnaires regarding the operations of these agencies and made the following observations:

- None of the agencies employs staff personnel who work for that agency exclusively on a full-time basis. Instead, two to three title officers are shared between and among the agencies.

- None of the agencies has its own separate office space for its exclusive use, but instead the agencies share office spaces.

- None of the agencies provides title services for multiple title insurers, but instead all agencies issue title policies exclusively through the Company.

- Six of the agencies receive their business exclusively from one of the parent owners or an affiliate of a parent owner, while four received the majority of their business from one of the parent owners or an affiliate of a parent owner.

- None of the agencies operates as a completely independent service provider subject to the risks and rewards of the marketplace as all agencies pay one of the parent owners for rent, management services, office furniture and equipment. In addition, each agency pays the Company for accounting services and software.

- The agencies do not contract with outside third-party vendors for services, but instead purchase title searches and contract for closing/settlement services from entities that are owned in part by the Company or one of its affiliates.

Based on these observations and balancing all relevant factors and considerations, it appears that these agencies were created for the purpose of providing remuneration to the agency owners or their affiliates for the referral of title insurance business. Although none of the noted observations are per se violations of Colorado or federal law, the examiners concluded that the cumulative effect of these factors is that the affiliated business arrangements were created for the purpose of providing remuneration for the referral of title insurance business. The manner in which these affiliated business arrangements were created and are being operated appears to be in violation of Colorado and federal insurance laws.

Recommendation No. 1:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of §§ 10-11-102 and 10-11-108, C.R.S., Colorado Insurance Regulation 3-5-1, as well as 12 U.S.C. §§ 2602 and 2607, and 24 C.F.R. § 3500.14, and 24 C.F.R. § 3500.15. In the event the Company is unable to show such proof, it should provide evidence to the Division that it has revised its agency structure and procedures to ensure that it is not in violation of the cited laws.

SUMMARY OF ISSUES AND RECOMMENDATIONS

ISSUES	Rec. No.	Page No.
MARKETING AND SALES		
Issue A: Creating and operating affiliated business arrangements for the purpose of obtaining remuneration in violation of Colorado and federal insurance laws.	1	20

Examination Resources, LLC

Charlotte J Howell, CIE
Victor Negron, AIE, FLMI
Jack Casper, CIE, CPCU

For

The Colorado Division of Insurance
1560 Broadway, Suite 850
Denver, Colorado 80202

participated in this examination and in the preparation of this report.